



# Industry Circular

## Internal Revenue Service

Alcohol, Tobacco and Firearms Division  
Washington, D.C. 20224

Industry Circular 69-11

April 3, 1969

### RECONSTITUTED TOBACCO AS WRAPPER FOR ROLLS OF TOBACCO

#### Manufacturers of tobacco products:

A revenue ruling relating to tobacco products wrapped in reconstituted tobacco has been approved for publication in the Internal Revenue Bulletin. The ruling specifies certain standards in addition to those in Revenue Procedure 66-5 (which is being superseded) that are relevant in determining whether wrapper material is a "substance containing tobacco" and whether a roll of tobacco wrapped in such material is a cigar or a cigarette. This ruling will also indicate that samples of products submitted for tax determination to the Director, Alcohol, Tobacco and Firearms Division, should be greater than were specified in Revenue Procedure 66-5. The ruling will read substantially as follows:

Questions have been raised as to what specific criteria are significant in determining whether wrapper material is a "substance containing tobacco," and whether a roll of tobacco wrapped in such material is a cigar or cigarette, as contemplated by section 5702(a) and (b), Internal Revenue Code.

The legislative history concerning Public Law 89-44, C.B. 1965-2, 643, indicates that the terms "substance containing tobacco" as used in section 5702 of the Internal Revenue Code and "reconstituted tobacco" were used synonymously. In the trade and in general terminology "reconstituted tobacco" is ground or pulverized tobacco mixed with various adhesive agents and cellulose fibers derived from tobacco or other sources, and formed into sheets. To be considered a product wrapped in a "substance containing tobacco" as used in section 5702(a) of the Code, the wrapper must (1) contain a significant proportion of natural tobacco; (2) be within the range of colors normally found in natural leaf tobacco; (3) have some of the other general characteristics of the tobaccos from which produced, e.g., nicotine content, pH (acidity-alkalinity), taste, and aroma; and (4) not be so changed in the reconstitution process that it loses all of the tobacco characteristics.

A combination of other factors must also be considered in determining whether a product wrapped in a "substance containing tobacco" is a cigar or a cigarette. Any such roll of tobacco which is not a cigar as defined in section 5702(a) of the Code is a cigarette as defined in section 5702(b). To be a cigar the filler must be substantially of tobaccos unlike those in ordinary cigarettes and must not have any added flavoring which would cause the product to have the taste or aroma generally attributed to cigarettes. The fact that a product does not resemble a cigarette (such as many large cigars do not) and has a distinctive cigar taste and aroma is of considerable significance in making this determination. The package should conspicuously declare the product a cigar and all marketing materials should clearly present the product to the consumer as a cigar and not as a cigarette. There should be no words or implications on the package or in other marketing materials to negate the declaration that the product is a cigar.

Manufacturers and importers have the initial responsibility for determining whether material intended for use as a wrapper for rolls of tobacco is a "substance containing tobacco," for determining whether a roll of tobacco wrapped in such material has the physical characteristics of a cigar or a cigarette, for knowing whether the product is being offered to the consumer as a cigar or a cigarette, and for determining the tax accordingly.

If a manufacturer or importer is not confident the material he intends to use as a wrapper for rolls of tobacco is a "substance containing tobacco" or the finished product is clearly a cigar or clearly a cigarette, he should submit samples of the finished product for tax determination to the Director, Alcohol, Tobacco and Firearms Division, Washington, D. C. 20224, Attention: Tobacco Tax Branch. In addition, he should furnish samples of the package and any larger consumer container such as a carton. If known to him he should also provide a brief statement of the merchandising theme and a statement of the manufacturing process and composition of the wrapper. The sample of the product and wrapper submitted for a tax determination of the product should be as follows:

1. Small (up to about 3 pounds a thousand) 1,000 of the finished product if separate wrapper material is not furnished, or 200 of the product and about 2,500 square inches (17 square feet) of wrapper material.
2. Intermediate (cigarillo size) (from about 3 to 10 pounds a thousand) 500 of the finished product if separate wrapper material is not furnished, or 100 of the product and about 2,500 square inches (17 square feet) of wrapper material.
3. Large (over about 10 pounds a thousand) 200 of the finished product if separate wrapper material is not furnished, or 50 of the product and about 2,500 square inches (17 square feet) of wrapper material.

On occasion, Alcohol and Tobacco Tax Inspectors may pick up samples of products and the packages in which they will be offered to the consumer, for examination and testing purposes.

Revenue Procedure 66-5, C. B. 1966-1, 614, is hereby superseded.

Any inquiries regarding this industry circular or the revenue ruling should be addressed to the Director, Alcohol, Tobacco and Firearms Division, Attention: Tobacco Tax Branch.



Harold A. Serr, Director  
Alcohol, Tobacco and Firearms Division